



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,413	08/27/2001	Takashi Ohgawara	6577,JPW/MS	4336

7590

05/20/2003

Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, NY 10036

EXAMINER

BARBEE, MANUEL L

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/940,413

Applicant(s)

OHGAWARA ET AL.

Examiner

Manuel L. Barbee

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:

On page 2, lines 13 and 14, please amend the sentence to correct the awkward wording.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 4, 7 and 10 are rejected under 35 U.S.C. 102(a) as being anticipated by Smith (US Patent No. 5,950,140).

With regard to collecting the measured data items, as shown in claims 1 and 7, Smith teaches using remote sensors to collect position information (col. 2, lines 6-24; col. 2, line 55 - col. 4, line 67). With regard to generating measurement data for users according to contract conditions for each user, as shown in claims 1 and 7, and hierarchically grouping the data according contract conditions for each user, as shown in claims 4 and 10, Smith teaches gathering measurements and generating a report according to an user defined set of data (col. 6, lines 1-23).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, 5, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Oishi (JP 410112264A).

Smith teaches all the limitations of claim 1 upon which claims 2, 3, 5 and 6 depend and claim 7 upon which claims 8, 9, 11 and 12 depend. Further, with regard to generating measurement data according to contract conditions, as shown in claims 3 and 9, Smith teaches using an user defined set of data, as shown above with regard to claims 1, 4, 7 and 10. Smith does not teach generating data on the condition that each at least one measuring instrument does not malfunction, as shown in claims 2 and 8, or determining whether at least one of the measured data items is abnormal and giving a re-measurement instruction in the case where at least one measured data item is abnormal, as shown in claims 3, 5, 6, 9, 11 and 12.

Oishi teaches determining whether a measurement value is abnormal or erroneous and making a remeasurement when data is abnormal (Abstract). Oishi teaches displaying data when it is judged to be correct. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the creep monitoring apparatus, as taught by Smith, to include checking to make sure measurements are normal and remeasuring when an abnormal measurement is

detected, as taught by Oishi, because then more accurate measurements would have been made and inaccurate measurements would not have been included in the data collection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brunson et al. (US Patent No. 4,486,844) teach an inclinometer.

Hayashi et al. (US Patent No. 5,378,429) teach a corrosive environment sensor and remeasurement in the event of inaccurate measurement.

Bielak et al. (US Patent No. 5,873,049) teach collecting geological data.

Hale et al. (US Patent No. 5,991,687) teach collecting and communicating geographical data.

Roy et al. (US Patent No. 6,560,565) teach seismic information and control system.

Kurusu (JP401016025A) teaches malfunction detection and remeasurement when a malfunction is detected.

Chubu Denryoku (JP 09184719A) teach a landslide detector with a number of measuring instruments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel L. Barbee whose telephone number is 703-308-0979. The examiner can normally be reached on Monday-Friday from 8-4:30.

Art Unit: 2857

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-0976.

mlb  
May 14, 2003

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800